

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

SIDNEY ALLEN WORTHEN,)
)
Plaintiff,)
)
v.) Case No. CIV-04-976-W
)
WILLIAM HULL, *et al.*,)
)
Defendants.)

**REPORT AND RECOMMENDATION
REGARDING REQUEST FOR JUDICIAL NOTICE AND ORDER**

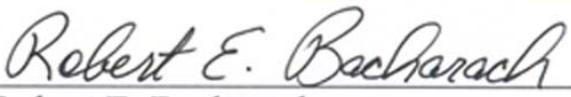
On June 10, 2005, the Plaintiff filed a document entitled “Plaintiff’s Request for Judicial Notice and Order.” In the pleading, Mr. Worthen complained of the failure to deliver eyeglasses that he had bought at the Dean McGee Eye Institute. As a result, Mr. Worthen requested an order to direct the United States Marshal or the Oklahoma Attorney General to obtain and deliver the eyeglasses. Eleven days later, Mr. Worthen mailed a letter to defense counsel and the Court, stating that he had received the eyeglasses on June 20, 2005. In light the eventual delivery of the eyeglasses, the Plaintiff’s request for “judicial notice” and an order of delivery are moot. On this basis, the Court should dismiss Mr. Worthen’s request. *See O’Connor v. Washburn University*, ___ F.3d ___, Case No. 04-3103, slip op. at 8-9 (10th Cir. July 28, 2005) (to be published).

The Plaintiff can object to this report and recommendation. To do so, Mr. Worthen must file an objection with the Clerk of this Court. The deadline for objections is August 19, 2005. *See* W.D. Okla. LCvR 72.1(a). The failure to timely object would foreclose appellate

review of the suggested ruling. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996) (“Issues raised for the first time in objections to the magistrate judge’s recommendation are deemed waived.”).

The referral is not terminated.

Entered this 29th day of July, 2005.



Robert E. Bacharach
United States Magistrate Judge